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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/419,752	10/16/1999	PETER AR-FU LAM	ESY2A	1738

7590 06/09/2009  
PETER AR-FU LAM  
20104 WAYNE AVENUE  
TORRANCE, CA 90503

EXAMINER
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ARMSTRONG, ANGELA A

ART UNIT	PAPER NUMBER
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2626

MAIL DATE	DELIVERY MODE
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06/09/2009

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 09/419,752	<b>Applicant(s)</b> LAM, PETER AR-FU	
	<b>Examiner</b> ANGELA A. ARMSTRONG	<b>Art Unit</b> 2626	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 25 February 2009.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 86-176 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 89-91, 129-134 and 176 is/are allowed.
- 6) ☒ Claim(s) 86-88, 92-128, 135-175 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                     | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

### **DETAILED ACTION**

- 1. This Office Action is in response to the amendment filed November 20, 2008.**

#### ***Claim Rejections - 35 USC § 101***

2. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

3. Claims 86-88, 92-113, 114-119, 120-128, 135-147, 148-153, 154-169, and 170-175 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

4. Regarding claims 86-88, claims 86-88 are directed to a programming tool. A programming tool does not fall within one of the statutory classes of inventions under 35 U.S.C. 101 as it is not a process because it is not a series of steps nor is the claimed programming tool a machine, or a composition of matter or manufacture (product classes).

Regarding claims 92-113, 114-119, 120-128, 154-169 and 170-175, the programming method claims of 92-113, 114-119, 120-128, 154-169 and 170-175 are directed to methods not eligible as a process under 35 U.S.C. 101. A method or process is statutory under 35 U.S.C. 101 if the method or process either (a) is tied to another statutory class of invention or (b) transforms subject matter to another state or thing. The programming method claims of 92-113, 114-119, 120-128, 154-169 and 170-175 fail to specifically recite limitations directed to the process being tied to another class of invention (for example, specifically reciting limitations for an apparatus that accomplishes the method steps) or limitations directed to identifying statutory subject matter that is transformed to another state or thing.

Regarding claims 135-147, the programming method claims 135-147 are directed to methods not eligible as a process under 35 U.S.C. 101. A method or process is statutory under 35 U.S.C. 101 if the method or process either (a) is tied to another statutory class of invention or (b) transforms subject matter to another state or thing. The programming method claims of 135-147 fail to specifically recite limitations directed to the process being tied to another class of invention (for example, specifically reciting limitations for an apparatus that accomplishes the method steps) or limitations directed to identifying statutory subject matter that is transformed to another state or thing.

Regarding claims 148-153, the programming method claims of 148-153 are directed to methods not eligible as a process under 35 U.S.C. 101. A method or process is statutory under 35 U.S.C. 101 if the method or process either (a) is tied to another statutory class of invention or (b) transforms subject matter to another state or thing. The programming method claims of 148-153 fail to specifically recite limitations directed to the process being tied to another class of invention (for example, specifically reciting limitations for an apparatus that accomplishes the method steps) or limitations directed to identifying statutory subject matter that is transformed to another state or thing.

***Allowable Subject Matter***

5. Claims 89-91, 129-134, and 176 are allowed.

***Response to Arguments***

6. Applicant's arguments with respect to claims 86-88, 92-113, 114-119, 120-128, 135-147, 148-153, 154-169, and 170-175 have been considered but are not persuasive.

Applicant argues claim 86 is directed to a machine and is a statutory invention. The Examiner cannot concur. Since the specification describes the invention as an interface between programmers and computers (i.e. software) and the claim fails to specifically recite claim limitations for components or physical structure to define or describe a machine or tangible device.

Applicant argues claims 92, 114, 120, 135, 148, 154, 170 and 175 have been amended to be "tied to" a specific machine. The Examiner cannot concur. The claims have been amended to recite "the programming tool", which, is an interface or software program used by the programmer, but is not a machine. Further, the steps being performed in the method claims are performed by a human (as recited in the claims) and therefore fail to satisfy the tied to requirement for a statutory process under 35 USC 101. The nominally claimed transformation step is merely a manipulation of an abstract idea (from the specification, applicant has defined the invention as a manipulation of data tables that represent logical thinking of a programmer) and therefore fails to satisfy the physical transformation requirement for a statutory process under 35 USC 101. Accordingly, since the claims fail to meet either of the requirements to be eligible as a statutory process under 35 USC 101, the claims fail to fall within one of the statutory categories of invention and are rejected under 35 USC 101.

***Conclusion***

1. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to ANGELA A. ARMSTRONG whose telephone number is (571)272-7598. The examiner can normally be reached on Monday-Thursday 11:30-8:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richemond Dorvil can be reached on 571-272-7602. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 2626

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Angela A Armstrong/  
Primary Examiner, Art Unit 2626